The Minutes

January 28, 2002

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Sims, Acting Presiding Justice; Nicholson, Associate Justice; Morrison, Associate Justice; and Facey, Bailiff. Calendar Called.

C036566 **CASTRO v. STAHL**

Cause called. Donald S. Britt argued for appellant. Gerald J. Adler appeared only. Damien Morozumi argued for respondent. Dennis E. Simmons appeared only. Cause submitted.

At 10:04 a.m., the court recessed until 9:30 a.m., Tuesday, January 29, 2002.

C032659 THE PEOPLE v. MILLER

(Not for Publication)

The judgment is affirmed.

KOLKEY, J.

Blease, Acting P.J. We concur:

Morrison, J.

C038309 THE PEOPLE v. McCASKEL

(Not for Publication)

The judgment is modified to reflect the imposition of a \$50 laboratory analysis fee (Health & Saf. Code, § 11372.5, subd. (a)), a \$50 state penalty assessment (Pen. Code, § 1464), and a \$35 county penalty assessment (Gov. Code, § 76000). The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy of the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed.

CALLAHAN, J.

Blease, Acting P.J. We concur:

Nicholson, J.

CORRECTIONS et al.

C036936

ALVARADO v. STATE PERSONNEL BOARD and DEPARTMENT OF (Not for Publication)

The judgment is affirmed.

DAVIS, Acting P.J.

We concur: Hull, J.

Kolkey, J.

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January 29, 2002

At 9:29 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Blease, Acting Presiding Justice; Morrison, Associate Justice; Hull, Associate Justice; and Rios, Bailiff. Calendar Called.

C026448 HASSAN v. MERCY AMERICAN RIVER HOSPITAL

Cause called. Mahesh Advani argued for appellant. Charity Kenyon argued for respondent. Cause submitted.

At 10:09 a.m., the court recessed. At 10:14 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison and Associate Justice Kolkey.

C032445 THE PEOPLE v. GARLAND

Cause called. Raymond Daniel Garland argued for himself in pro per as appellant. Cause submitted.

At 10:20 a.m., the court recessed. At 10:24 a.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Raye and Associate Justice Morrison.

C036441 GRANT v. RUTLEDGE

Cause called. Daryl Grant argued for himself in pro per as appellant. Lawrence N. Hensley argued for respondent. Cause submitted.

At 10:50 a.m., the court recessed. At 10:52 a.m., the court reconvened with Acting Presiding Justice Raye, Associate Justice Morrison and Associate Justice Hull.

C038255 THE PEOPLE ex rel. DEPT. OF TRANSPORTATION v. WILSON et al.

Cause called. Gary Brickwood argued for appellants. Bruce D. McGagin, DOT Legal Division, argued for respondent. Ronald W. Beals, DOT Legal Division, appeared only. Cause submitted.

At 11:19 a.m., the court recessed. At 11:23 a.m., the court reconvened with Presiding Justice Scotland, Associate Justice Davis and Associate Justice Morrison.

C025712 BARROWS et al. v. MARTIN

Cause called. Robert M. Schuster argued for appellants. Kenneth M. Foley argued for respondent. Cause submitted.

The Minutes

January 29, 2002, continued

At 11:44 a.m., the court recessed. At 2:05 p.m., the court reconvened with Acting Presiding Justice Blease and Associate Justice Hull. Associate Justice Davis was not present.

C034061 C034063

QUALITY ASSURANCE TECH., INC. v. SYSTEMS PARTNERS, INC. et al. Cause called. All counsel orally stipulated that Justice Davis could participate by cassette tape. Mary P. Sullivan argued for appellants. Hartley T. Hansen argued for respondent. Cause submitted.

At 2:39 p.m., the court recessed. At 2:43 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Hull, and Associate Justice Kolkey.

C037276 THE PEOPLE v. RAIA et al.

Cause called. Zenia Karen Gilg argued for appellant Raia and submitted additional citations. Daniel Brant Schultz appeared only. Harry Joseph Colombo, Deputy Attorney General, argued for respondent. Cause submitted.

C037421 THE PEOPLE v. MACK

Cause called. William M. Robinson, court appointed counsel, argued for appellant. Wanda Hill Rouzan, Supervising Deputy Attorney General, argued for respondent. Cause submitted.

At 3:40 p.m., the court recessed until 9:30 a.m., Tuesday, February 19, 2002.

C037582 THE PEOPLE v. VASQUEZ

(Not for Publication)

The judgment of conviction is affirmed. The sentence imposed on counts IV and VII is stayed. The sentences imposed on counts IV and VII were ordered to run concurrently, therefore, our disposition does not reduce that portion of defendant's sentence that ordered him to state prison for 10 years 8 months. The trial court shall prepare an amended abstract of judgment consistent with our opinion and send a copy of the amended abstract to the Department of Corrections.

HULL, J.

We concur: Sims, Acting P.J.

Morrison, J.

C039285 THE PEOPLE v. LEWIS

(Not for Publication)

The judgment is affirmed.

DAVIS, J.

We concur: Blease, Acting P.J.

Nicholson, J.

The Minutes

January 29, 2002, continued

C037671 VENNEWITZ v. VENNEWITZ (Not for Publication)

The judgment is affirmed. Respondent shall recover his costs on appeal. (Cal.

Rules of Court, rule 26 (a) (1).)

BLEASE, Acting P.J.

We concur: Nicholson, J.

Morrison, J.

C038259 VALLEY PUBLIC BENEFIT CORP. v. NATOMAS UNIFIED SCHOOL DIST.

(Not for Publication)

The judgment is affirmed. Respondent shall recover its costs on appeal. (Cal.

Rules of Court, rule 26 (a) (1).)

BLEASE, Acting P.J.

We concur: Callahan, J.

Hull, J.

COUNTY OF ALAMEDA v. COUNTY OF SAN JOAQUIN and TRIMARK COMMUNITIES

BY THE COURT:

Pursuant to the written request of the appellant, the appeal filed September 25, 2001, is dismissed. It is further ordered that the remittitur issue forthwith. (See

Cal. Rules of Court, rule 19(b).)

SCOTLAND, P.J.

January 30, 2002

C035564 THE PEOPLE v. TONEY (Certified for Publication)

The judgment (order denying review pursuant to section 871.5) is affirmed.

BLEASE, J.

We concur: Scotland, P.J.

Callahan, J.

C036491 THE PEOPLE v. McCRUM (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Callahan, J.

Hull, J.

C036567 THE PEOPLE v. CRAWFORD (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Davis. J.

Nicholson, J.

The Minutes

January 30, 2002, continued

C036907 THE PEOPLE v. GILHULA (Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Davis, Acting P.J.

Raye, J.

C037601 THE PEOPLE v. MOORE (Not for Publication)

The judgment is affirmed. The trial court is ordered to prepare a corrected abstract of judgment reflecting that defendant was convicted by the court and

forward a certified copy to the Department of Corrections.

SIMS, Acting P.J.

We concur: Davis, J.

Morrison, J.

C037793 THE PEOPLE v. SHAW, SR. (Not for Publication)

The order is reversed. The matter is remanded to the trial court with instructions to enter an order denying the new trial motion, to reinstate defendant's

convictions, and to impose sentence.

CALLAHAN, J.

We concur: Sims, Acting P.J.

Davis, J.

C037999 THE PEOPLE v. SMITH (Certified for Publication)

The judgment is affirmed. (CERTIFIED FOR PUBLICATION.)

NICHOLSON, J.

We concur: Scotland, P.J.

Davis, J.

C038871 THE PEOPLE v. SORIA (Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Blease, Acting P.J.

Nicholson, J.

C038984 THE PEOPLE v. GILL (Not for Publication)

The order granting probation in case No. CR01-608 is reversed and the case is

remanded for resentencing under Proposition 36.

RAYE, J.

We concur: Scotland, P.J.

Blease, J.

The Minutes

January 30, 2002, continued

C034805 LAUGHLIN v. SAVE MART SUPERMARKETS et al.

(Not for Publication)

The judgment is reversed. The trial court is directed to enter a new and different order denying the motion for summary judgment. The plaintiff shall recover costs of appeal.

DAVIS, J.

We concur: Scotland, P.J.

Callahan, J.

C036132 MELLOR v. SCHULER (Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

I concur: Scotland, P.J.

I concur in the result:

Hull, J.

C036273 LEE v. GALT VENTURE LIMITED et al. (Not for Publication)

C037128 The orders are affirmed.

CALLAHAN, J.

We concur: Blease, Acting P.J.

Davis, J.

C036612 TEJEDA v. BIGGS-GRIDLEY MEMORIAL HOSPITAL et al. C036617 SPENCER v. BIGGS-GRIDLEY MEMORIAL HOSPITAL et al. (Not for Publication)

(Not for Publication)

The orders of dismissal are reversed, and the matter is remanded to the trial court for further proceedings consistent with this opinion.

SCOTLAND, P.J.

We concur: Nicholson, J.

Hull, J.

C037261 SCHWARTZBERG et al. v. WARMINGTON HOMES CALIFORNIA (Not for Publication)

The judgment is affirmed.

DAVIS, J.

We concur: Scotland, P.J.

Callahan, J.

The Minutes

January 30, 2002, continued

C037369 THE PEOPLE v. BRACH et al.

(Certified for Publication)

THE COURT:

On the court's own motion, the opinion in the above matter, filed January 24, 2002, is modified in the following respects:...These modifications do not change the judgment.

BY THE COURT:

Sims, Acting P.J. Raye, J. Callahan, J.

January 31, 2002

C032829 THE PEOPLE v. BICKFORD

(Not for Publication)

The judgment is affirmed.

KOLKEY, J.

We concur: Blease, Acting P.J.

Morrison, J.

C033593 THE PEOPLE v. MOSBY

(Certified for Partial Publication)

The judgment is affirmed.

KOLKEY, J.

We concur: Blease, Acting P.J.

Hull, J.

C034796 THE PEOPLE v. JOPLIN

(Not for Publication)

The judgment is reversed and the cause remanded to the trial court. Upon motion by defendant within 30 days of the date on which this opinion is final, the trial court shall vacate defendant's guilty plea. Upon a subsequent motion by the People, the trial court shall reinstate any charges covered by the negotiated plea agreement, including any charges dismissed under the agreement. The case or cases shall then proceed to trial or other appropriate disposition in accordance with the views discussed in this opinion.

Should defendant not move to withdraw his plea, the trial court shall reinstate the judgment and prepare an amended abstract of judgment, as explained above, that reflects defendant's conviction for count "B12" was for receiving stolen property. The trial court shall then provide a certified copy of the amended abstract to the Department of Corrections.

DAVIS, J.

I concur: Sims, Acting P.J.

I concur:... Hull, J.

The Minutes

January 31, 2002, continued

C037090 THE PEOPLE v. SPENCE (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Raye, J.

C037214 THE PEOPLE v. WEST (Not for Publication)

The order granting probation is affirmed.

MÖRRISON, J.

We concur: Scotland, P.J.

Hull, J.

C037315 THE PEOPLE v. TURNER (Certified for Publication)

The judgment is modified by imposing a \$50 laboratory analysis fee pursuant to Health and Safety Code section 11372.5, a \$50 penalty assessment pursuant to Penal Code section 1464, and a \$35 penalty assessment pursuant to Government Code section 76000. As modified, the judgment is affirmed. The trial court shall prepare an amended abstract of judgment showing these modifications and shall forward a certified copy of the same to the Department of Corrections.

SIMS, Acting P.J.

We concur: Morrison, J.

Hull, J.

C037355 THE PEOPLE v. GREENLEAF (Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We concur: Scotland, P.J.

Davis, J.

C037470 THE PEOPLE v. TORRES (Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We concur: Blease, Acting P.J.

Davis, J.

The Minutes

January 31, 2002, continued

C037540 THE PEOPLE v. BLOODSAW

(Not for Publication)

The sentence is vacated and the matter is remanded with directions to the trial court to either sentence defendant to a three-year term in accordance with the plea agreement or allow the defendant to withdraw his plea, in which case the original charges and cases should be reinstated. If the trial court determines to proceed with sentencing, it is directed to impose the mandatory registration requirements under section 290.

MORRISON, J.

We concur: Scotland, P.J.

Raye, J.

C033740

LEAGUE TO SAVE SIERRA LAKES et al. v. EL DORADO COUNTY WATER AGENCY et al. (Not for Publication)

The League's appeal from the trial court's order awarding it \$18,000 in attorney fees and from the order denying its motion for reconsideration is dismissed.

SCOTLAND, P.J.

We concur: Raye, J.

Callahan, J.

C034581

SUNNYVALE ELEMENTARY SCHOOL DISTRICT et al. v. KATHLEEN CONNELL, etc. (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Blease, J.

Morrison, J.

C035099

McSWAIN v. STATE PERSONNEL BOARD etc., et al.

(Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Scotland, P.J.

Callahan, J.

C035920

FEIGHT v. THULIEN

(Not for Publication)

We conclude that Lucille's and Terry's petitions do not violate the Trust's no contest clause. We do not express any views on the merits of these two petitions. We decline Terry's requests to take judicial notice of related court actions by Ronald Thulien; these requests are unnecessary to our resolution of this appeal. The judgment is reversed. Each party shall pay its own costs on appeal.

DAVIS. J.

We concur: Scotland, P.J.

Kolkey, J.

The Minutes

January 31, 2002, continued

C037493 CALIFORNIA CORRECTIONAL SUPERVISORS ORG., INC. v. CALIFORNIA DEPT. OF CORRECTIONS et al. (Not for Publication)

The judgment is affirmed. CDC shall recover its costs on appeal.

MORRISON, J.

We concur: Sims, Acting P.J.

Nicholson, J.

C036193 EMERY, JR. v. VISA INTERNATIONAL SERVICE ASSOC. et al. (Certified for Publication)

THE COURT:

The opinion in the above-entitled matter filed on January 8, 2002, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.

FOR THE COURT:

Scotland, P.J.

Davis, J.

Raye, J.

C037875 In re SE. T. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. L.T. (Certified for Publication)

THE COURT:

It is ordered that the opinion filed in this case on January 11, 2002, be modified in the following particulars:...This modification does not change the judgment. (CERTIFIED FOR PUBLICATION.)

FOR THE COURT:

Scotland, P.J.

Davis, J.

Nicholson, J.

February 1, 2002

C025458 THE PEOPLE v. WILLIAMS (Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Davis, J.

Raye, J.

C032966 THE PEOPLE v. COMO (Certified for Partial Publication)

The judgment is affirmed.

HULL, J.

We concur: Sims, Acting P.J.

Callahan, J.

The Minutes

February 1, 2002, continued

C038187 SAN JOAQUIN COUNTY v. PERANO et al.

(Not for Publication)

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion. Appellant shall recover its costs on appeal. (Cal. Rules of Court, rule 26(a).)

BLEASE, J.

We concur: Scotland, P.J.

Nicholson, J.

C038304 In re NICKOLAUS A.; THE PEOPLE v. NICKOLAUS A.

(Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Davis, J.

Nicholson, J.